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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,225	08/08/2001	Dale Richard McBride	11909/301	9868

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EXAMINER

WILLATT, STEPHANIE L

ART UNIT PAPER NUMBER

3732

DATE MAILED: 04/23/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/682,225

Applicant(s)

MCBRIDE, DALE RICHARD

Examiner

Stephanie L. Willatt

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 16-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11 and 20-24 is/are rejected.
- 7) ☒ Claim(s) 10 and 12-15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Election/Restrictions

1. Claims 16-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 8.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the male quick disconnect (4E), the female quick disconnect (4F), and the wound layers must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "1B1" and "2" have both been used to designate the same layer, and "1B2" and "1A" have both been used to designate another layer. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

4. The disclosure is objected to because of the following informalities: the term "your inventor" is found throughout the specification. This term should be "the inventor" instead. An example of this occurrence can be seen in line 8 of paragraph [0030].

Appropriate correction is required.

Claim Objections

5. Claims 1 and 4 are objected to because of the following informalities:
- Line 7 of claim 1, "means to inject and released compressed air" does not make sense. There appears to be a typo.
 - Claim 4 recites the limitation "the diaphragm" in line 3. There is no antecedent basis for this limitation.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 4, 5, and 20-24 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as

to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

8. Claims 4 and 20-24 recite the first and second interior (sub)layers and the diaphragm. These features are not clearly described in the specification or shown in the drawings.

9. As mentioned above in the objection to the drawings, the first (1B1) and second (1B2) interior layers and the diaphragm (2) are not distinctly shown in the drawings. It is difficult to decipher what the difference between the first (1B1) interior layer and the diaphragm (2) is in the drawings. It is difficult to decipher what the difference between the second (1B2) interior layer and the exterior layer (1A) is in the drawings.

10. In paragraph [0019] of the specification, the bladder (1) is described as having first and second ends defined by a diaphragm (2). Then, in paragraph [0021], the diaphragm (2) is described as extending free from the bladder (1), and the first interior layer (1B1) is described as being affixed to and forming the first end of the bladder (1). Is the diaphragm separate from the interior layer? Which of the diaphragm (2) and the first interior layer (1B1) defines the first end of the bladder (1)? Is the bladder separate from the interior (1B) and exterior (1A) layers? How could the first interior layer (1B1) be affixed to the first end of the bladder (1) if the first interior layer (1B1) is what forms the bladder (1)?

11. Paragraph [0021] describes the second interior layer (1B2) as being bonded to the affixed portion of the first interior layer and forming the interior layer of the second end of the bladder. Which of the diaphragm (2) and the second interior layer (1B2) defines the second end of the bladder (2)? Where exactly is the affixed portion?

12. Claim 5 recites that the interior layer is affixed to the exterior layer from the first end of the bladder to the longitudinal circumference of the bladder at or around the latitudinal center of the bladder. This statement is not completely supported by the specification. Paragraph [0026] vaguely implies that the interior layer and the exterior layer are bonded together at some point, but the location of the bonding is not as specific as it is in claim 5. Paragraph [0029] states that the diaphragm (2) extends "from the bladder (1) along the longitudinal circumference of the bladder (1) as depicted in the figures." This statement does not say anything about the latitudinal center of the bladder, and the drawings do not clearly show where the diaphragm begins with respect to the interior layers. Please see the objection to the drawings above.

13. Claim 20 states that the first interior sublayer is affixed to the exterior layer. The specification does not mention the first interior sublayer as being affixed to the exterior layer.

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

15. Claims 1-5, 7, 11, 20, 21, and 23, as best understood by the examiner, are rejected under 35 U.S.C. 102(b) as being anticipated by Richter et al.

Richter et al. disclose a transportable storage system comprising a multi-layer, flexible, collapsible bladder having a flexible interior layer, which is made up of a first sublayer (42) and a second sublayer (EVOH layer 44), and a flexible exterior layer (40). As best understood from the specification of the present application, it seems that the diaphragm is just the end of the first interior sublayer. With this definition in mind, the end of the first sublayer (42) of Richter et al. is a diaphragm.

The interior layer (42 and EVOH layer 44) of Richter et al. can be affixed to the exterior layer (40) for as much as half way up the container, as discussed in column 4, lines 54-67. An adhesive layer can be used between the EVOH layer 44 and one of the other layers, as described in column 3, lines 29-33. The bladder has two orifices (38 and 34), one at each end of the bladder (Figures 1 and 2). There are means to inject and release compressed air to and from one end of the bladder through the first orifice, as discussed in column 6, lines 35-44. There are means (tube 14) to inject and expel liquids to and from the other end of the bladder through the second orifice (34). The

interior (42 and EVOH layer 44) and exterior (40) layers of the bladder are substantially the cylindrical and the same size.

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 6, 8, and 22, as best understood by the examiner, are rejected under 35 U.S.C. 103(a) as being unpatentable over Richter et al.

Richter et al. disclose the features discussed above, but do not disclose that the interior layer is made of nitrile rubber, the exterior layer is made of neoprene, or that the adhesive is Tygum. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the interior layer out of nitrile rubber, the exterior layer out of neoprene, and the adhesive out of Tygum, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416 (CCPA 1960).

18. Claims 9 and 24, as best understood by the examiner, are rejected under 35 U.S.C. 103(a) as being unpatentable over Richter et al. in view of Rosman.

Richter et al. disclose the features discussed above, but do not disclose that the exterior of the interior layer of the bladder is wound with layers of fiber. Rosman discloses a tank (18) wrapped with a filament winding (63), as discussed in column 8, lines 49-55 and shown in Figure 4. It would have been obvious to one with ordinary skill in the art at the time the invention was made to wrap the exterior of the interior layer of the bladder of Richter et al., as taught by Rosman, in order to control the deflection of the interior layer of the bladder.

Allowable Subject Matter

19. Claim 10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

20. Claims 12-15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims, and if the male quick disconnect (4E) and the female quick disconnect (4F) are shown in the drawings without introducing new matter.


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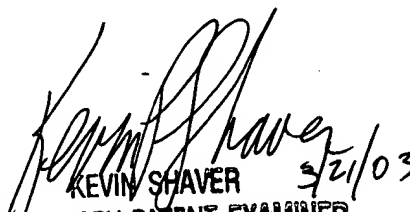
Conclusion

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie L. Willatt whose telephone number is 703-305-6316. The examiner can normally be reached on M-F (8:30-6:00) First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on 703-308-2582. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.


slw
March 18, 2003


KEVIN SHAVER 3/21/03
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700